IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 182 OF 2007

Mohd. Juned Hassan Zaidi ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr. A.J.Rajadhyaksha, Advocate for the applicant.

Mrs. M.H. Mhatre, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 7TH FEBRUARY, 2007.

P.C.

. Heard Mr. Rajyadhyaksha, learned Counsel for the applicant and Mrs.M.H. Mhatre, learned APP for the State. Perused the police papers.

2. The applicant seeks to be released on bail in Crime No.259/2006 registered at Dahisar Police Station for the offence punishable under section 363, 366,376 of Indian Penal Code. After completion of investigation charge sheet is already filed and is pending before the Sessions Court at Mumbai for trial.

3. The prosecution case, in brief, is that the present applicant, who is aged about 37 years and married, was working as Computer Teacher and the prosecutrix, girl aged less than 16 years, used to attend computer classes. She was student of 11th standard during the relevant period. On 24/7/2006 accused induced the girl to accompany him and he took her to different places. She was found on 27/7/2006 and on the same day the accused was also arrested. During the said period the accused had also committed sexual intercourse with the said girl repeatedly. The application for bail filed by the present applicant came to be rejected by the Sessions Court. Therefore, he has filed the present application.

4. From the documents placed before the Sessions Court it appears that the date of birth of the girl recorded in the School was 15/8/1990, while as per affidavit of her father the age was 15/9/1990. It appears that another birth certificate was produced showing date as 4/10/1991. These documents are not before this Court. However, they are referred to in para 6 of the order passed by the learned Additional Sessions Judge. Out of the three dates the earliest is

15/8/1990 which is recorded in the admission register of the School.It may be presumed that the said date may be correct. The alleged incident of kidnapping took place in July 2006 and thus it appears that the girl was less than 16 years of age. Therefore, she could not give valid consent for sexual relationship nor she could give consent for being taken away from her parents' custody. Therefore, prima facie, offences under section 363, 366, 376 appear to have been committed. In view of the fact that the accused is aged about 37 years and is married and he was working as computer teacher, it appears that he has misused his authority and position and allured a minor girl and kidnapped her and then committed rape on her. It may not be in the interest of society at large to grant bail to such person pending the appeal.

5. Application stands rejected.

6. Sessions Court shall expedite the trial and dispose off the matter as early as possible.

(J.H. BHATIA, J.)